

REMARKS

***Introduction: Applicants' Intention to Place Application in  
Condition for Allowance***

5       At the outset, applicants wish to make clear that they disagree with examiner regarding many of the rejected claims. However, examiner has also allowed or indicated allowability of a fair number of claims at this point which, in applicants' view, provides a fair share, but by no means all, of the patent  
10 protection which applicants are seeking and to which they are entitled. APPLICANTS THEREFORE WISH TO HAVE THE PRESENT APPLICATION ISSUE VERY SOON INTO A PATENT, WITHOUT THE DELAY IN SECURING A PATENT GRANT THAT WOULD BE ENTAILED IN FILING A REQUEST FOR CONTINUED EXAMINATION (RCE).

15       As a result, applicants have amended the claims with the single-minded goal of placing this application in condition for allowance at this time, WITHOUT THE NEED TO FILE AN RCE. Thus, applicants have amended or cancelled claims for which applicants and examiner have not yet come to agreement on allowance in  
20 accord with examiner's present viewpoints. This should not in any way be taken as indicating agreement or acquiescence with examiner's views, but only as indicating applicants' desire to obtain short-term patent protection for claims for which there is agreement and to decouple claims for which there is not yet  
25 agreement so these can be considered again in a subsequent continuation.

In other words, applicants have amended the claims to place

this application into condition for allowance based on indications of allowability already given by examiner, while preserving the right to pursue claims and lines of discussion where there is not yet agreement, in the future. It bears  
5 repeating that it is applicants' intention to have this current application issue in the near future WITHOUT AN RCE, and to file a continuation of the present application where applicants will continue to seek allowance of said claims where applicants and examiner have not yet come to agreement.

10 Thus, applicants wish to be very clear that any amendments of the claims herein to accord with examiner's views are *solely for the purpose of securing quick allowance of this application at this time*. These amendments are being proposed *without prejudice* to return to the issues where agreement has not yet  
15 been reached, during prosecution of the planned continuation application and any subsequent applications which may also be filed.

Applicants also want to make a clear request to examiner: if there is anything still not quite in condition for allowance  
20 following this reply, please call applicants' counsel to resolve this by examiner's or applicants' amendment as suitable, rather than take any steps which may require an RCE filing. Again, it is applicants' *bona-fide* intention here to amend the claims in a way that should place this application into condition for  
25 allowance and secure immediate allowance based on what examiner has stated in this office action is allowable. Counsel is prepared to authorize whatever amendments are necessary at this

time to secure allowance in the near future. Any points of disagreement will be deferred for discussion, without prejudice, to a continuation application.

Although this application was "made special," it has already  
5 been unreasonably delayed due to processing problems in the  
patent office such as PTO fax machines which cut off applicant's  
last reply and an unconscionably long delay (on the order of six  
months) before applicants were even notified of this problem.  
Applicant may separately petition for an adjustment of the PTA  
10 calculation because applicants' September 18, 2004 reply was  
complete and fully responsive and the cutoff of pages was due to  
problems at the patent office and not at all to any omission by  
applicants, and because the patent office also failed to notify  
applicants in a timely manner that there was any problem at all.

15 Remarks below are numbered to correspond to numbering in the  
office action. In points 43 to 59, examiner responded to  
applicants' arguments in the earlier September 18, 2004 reply to  
the first office action. Applicant has responded further to  
points 43 to 59, as warranted, but integrated this with the reply  
20 to points 1 to 39, rather than respond separately to points 43 to  
59 on a point-by-point basis. Reference to points 43 to 59 is  
made wherever they are replied to in points 1 to 39 below.

#### ***Information Disclosure Statement***

25 1. Insofar as any references such as at page 17, paragraph 75,  
these references are not in any way "pertinent to patentability"  
as this term is commonly understood and applied, and so are not

in the information disclosure. They are rather in the nature of general textbook-type references pertaining to the underlying basic science. Most knowledgeable readers will know this information, and this is merely for the convenience of readers of the patent who may wish to refer to the basic literature for their own edification.

#### ***Specification***

2. The replacement for paragraph 91 is included herein.

10

#### ***Claim Objections***

3. All changes suggested by examiner have been made, with the exception of the following:

Claim 99, line 33 in the earlier reply, lines 25-26 in this reply, "below an electrochemical potential of said at least one element of interest," delete "said." The use of "said" is proper, because there is antecedent basis for "element of interest" in claim 99, lines 19 and 20 of the earlier reply, lines 11 and 12 of this reply.

20

#### ***Claim Rejections - 35 USC § 112***

4. Applicant does not concur with examiner's viewpoint. Nevertheless, applicant has removed from the claims, all references to "equivalent cell" in order to place this application in condition for allowance. This is without prejudice to the prosecution of any future applications.

5. Applicant has cancelled dependent claim 36, and moved into independent claim 1 the claim 36 recitation of "calibration data comprising background data related to a rate at which photons are detected to be emitted from at least one background data energy channel of said preconcentration cell or an equivalent cell, when said preconcentration cell or equivalent cell is filled with a highly purified form of a fluid of interest and exposed to x-rays."

This amendment overcomes this 35 U.S.C. 112, second paragraph rejection by substituting language from claim 36, which examiner has already determined would be allowable (point 41), into the independent system claim 1.

This also overcomes the prior art rejections of points 10 and 11, also by substituting language from claim 36, which examiner in point 41 has already determined would be allowable.

Applicants do not agree with examiner's rejection here, and disagree with examiner's point 46 that the claims prior to amendment are missing essential cooperative structural relationships and that the data itself, used cooperatively with the cell, is insufficient to specify a complete system without explicit recitation of the means for obtaining data. The claim specifies what the data is, and how it is utilized in combination with the cell for identifying and measuring concentrations of elements in fluids. Data suitably-recited in an apparatus or system claim and further recited as cooperating with other structural elements is itself a structural element, even without recitation of the means for obtaining the data.

As noted above, however, this amendment is for the purpose of putting this application into condition for immediate allowance, and is proposed for entry without prejudice to any future applications for this same subject matter.

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6. The word "second" has been removed as an adjective for "calibration solution" in claim 38. This should have been removed with the first office action reply along with other occurrences of "second" elsewhere in the claim, and so was a clerical oversight. Examiner appears to have been in error regarding claim 98, since all occurrences of "second" were removed from claim 98 with the first office action reply, and so there is nothing further required for this claim.

7-9. The product-by-process claims 169-176 and 179, 180 are hereby cancelled, without prejudice to the prosecution of any future applications based on this application. It is noted, and appreciated, that the parallel method claims, 161-168 and 177, 178 have been allowed by examiner (point 40).

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***Claim Rejections - 35 USC § 103***

10. Claims rejections will be discussed separately in each point below.

11. As a result of the amendments discussed in points 4 and 5, claim 1 is allowable (examiner's point 41). Claim 2 is allowable because of its dependence on claim 1.

Dependent claim 96 is cancelled, and the recitations of "filling said preconcentration cell, with a highly purified form of a fluid of interest; exposing the filled preconcentration cell to x-rays; acquiring background data related to a rate at which photons are detected to be emitted from at least one background data energy channel of said preconcentration cell; and associating said background data with said preconcentration cell," have been moved from claim 96 into independent claim 62.

Examiner has already indicated in point 41 that claim 96 is allowable. Thus, by incorporating claim 96 into independent claim 62, claim 62 is now allowable.

Applicants do not agree with examiner's rejection here. In particular, into point 47, examiner's argument is disingenuous that if "one can deduce that the concentration of the cell is greater than zero parts per billion" one has deduced a concentration. Being able to *merely detect existence* cannot be in any way equated to *measuring concentration* as was set forth in the unamended claims. As noted above, however, this amendment is for the purpose of putting this application into condition for immediate allowance, and is proposed for entry without prejudice to any future applications for this same subject matter.

12. Applicants very much disagree with examiner's statement that Tran "discloses upper and lower x-ray (col. 16, lines 13-15) transmission windows in intimate contact with the electrodes (fig. 29, #603 and 605) . . ." Applicants have discussed at length why this is not the case, in point 12 of applicants'

September 18, 2004 office action reply, which is hereby incorporated by reference. Briefly, as noted by applicants, the windows in Tran which are in contact - "intimate" or not - with the electrode material are all titanium or similar metallic

5 windows which do not, as specified in Tran, have the ability to conduct x-rays. Thus Tran does not disclose any type of "x-ray transmission window" in any type of "contact" with any type of "electrode" as required by applicants' claims 4, 5, 64, and 65.

Examiner in point 48 now uses Shefer et al. (US 6,148,061),  
10 newly-cited, to argue that "titanium does have the necessary material properties to serve as a transmission window."  
Scientifically speaking, any metal - though far less preferred than other materials - may in theory be used as a window to transmit x-rays, so long as the thickness of the metal is very  
15 small and the wavelength of the x-rays is sufficiently large to penetrate the small metal thickness. The metal plates in Tran are way too thick to allow x-rays to be transmitted therethrough, there does not appear to be any disclosure in Tran which establishes in a general mathematical way how thick these plates  
20 are envisioned to be, and there is no disclosure or suggestion in Tran to make these plates thinner. In fact, the devices marketed by Tran which are based on this patent employ 1/8" to 1/4" thick plates as structural members through which no x-rays are ever passed. The windows in Shefer are on the order of .001 to .005  
25 inches (column 3, lines 30, 34, 46, 47), which is much thinner than the plates in Tran by two or more orders of magnitude, and there is nothing in Shefer that discloses or suggests or



motivates substituting these much thinner windows into a system such as is disclosed by Tran.

Finally, must be noted that this issue here goes beyond bombarding the plates with X-rays, and also goes to receiving  
5 sufficient x-ray fluorescence back through the plates to take a subsequent reading of concentration. Even if an x-ray powerful enough to penetrate Tran's plates were used (which may require something close to a nuclear explosion), it would not be possible for a strong-enough fluoresced signal to return out through  
10 Tran's window to strike the detector, because this fluoresced signal would be absorbed by Tran's plates. This even applies to Shefer, because of his use of titanium. That is, even if x-rays were to pass through Shefer's titanium due to its thinness, the fluoresced signals would be absorbed on the way back out and  
15 could not be detected by a detector.

As such, dependent claims 4, 5, 64, and 65 contain points of patentable distinctness independent of their dependence on claims 1 and 62, while claims 124, 125, 130, 143, 147 and 149 are allowable and should have been allowed. This is because at the  
20 thickness specified, Tran's plates are *not* capable of transmitting x-rays and thus are not an "x-ray transmission window" as set forth in applicant's claims. And, there is nothing in either Tran or Shefer to disclose, suggest, or motivate their combination, that is, to make Tran's plates orders  
25 of magnitude thinner. Indeed, if the plates in Tran were made so much thinner, the fluid pressures built up in Tran (which, again, is a *removal* cell and thus needs to flow high volumes of fluid at

large pressures) could not be restrained by the plates without damage to Tran's cell, and so examiner is in fact suggesting an impossible combination.

Notwithstanding the above, dependent claims 4, 5, 64, and 65  
5 are allowable by virtue of their dependence on independent,  
amended allowable claims 1 and 62. Although claims 124, 125,  
130, 143, 147 and 149 also should have been allowed for the  
reasons set forth above, applicant has nevertheless cancelled  
these claims and all of their dependent claims 126-129, 131-138,  
10 141-142, 144-146, 148, 150-156, and 159-160 at this time  
(excepting claims 139, 140, 157 and 158 which examiner has said  
in point 41 "would be allowable"). This is done solely to place  
this application in condition for allowance leading to a near-  
term patent issue as noted at the outset of these remarks, rather  
15 than run the risk of the delays inherent in the filing of an RCE  
and continued argumentation. This is without prejudice to  
reintroduce these same claims and return to these same arguments  
in a later prosecution.

Claims 139, 140, 157 and 158 which examiner has said in  
20 point 41 "would be allowable," have been amended in include all  
the limitations of their base and intermediate claims, and so  
should be allowed at this time.

13-15. Applicants reiterate their arguments in points 13, 14 and  
25 16 of the prior reply, which are hereby incorporated by  
reference.

In response to point 49, applicants observe that Figures 5

and 23 of Tran as cited by examiner are strictly schematic from which examiner is making an unwarranted inference about the actual, physical flow path, while Figure 19 simply shows flow with an arrow without anything to suggest a planar inlet, and  
5 Figure 28 shows a tubular inlet not a planar inlet, which also does not appears to be not substantially coplanar with the flow path between the electrodes. Tran's Figure 10, referenced by examiner in point 50, is wholly schematic and makes no disclosure or suggestion of physically parallel flow tubes.

10 Notwithstanding, applicants have amended claims 7, 8, 67 and 68 to recite that the inlets themselves are planar, and that the parallel inlet slots are themselves mutually substantially coplanar.

Even without this amendment, claims 6 - 8, 10 - 14, 66 - 68,  
15 and 70 - 74 are allowable based on their dependence on claims 1 and 62 and also contain further points of patentable distinctness which need not be addressed here to place the application in condition for allowance. These amendments further amplify this distinctness. Applicants preserve the right to argue the  
20 original claims in a future application, without prejudice.

In reply to point 51, applicants do not believe that flowing chemicals as in Tran reads on "access means." Nevertheless, applicants have amended claims 10, 14, 70, and 74 which are already allowable based on their dependence on claims 1 and 62,  
25 to specify access for "physically" cleaning. These amendments further amplify this distinctness, and applicants preserve the right to argue the original claims in a future application,

without prejudice.

16-19. Claims 15, 16, 18 - 21, 34, 35, 75, 76, 78 - 81, 94 and 95 are allowable based on their dependence on claims 1 and 62.

5 They contain further points of patentable distinctness which need not be addressed here to place the application in condition for allowance. Applicants reiterate their arguments in points 17 and 18 of the prior reply, which are hereby incorporated by reference.

10 Claims 134, 135, 137, 138, 152, 153, 155 and 156 were cancelled in point 12, without prejudice.

In reply to point 52, applicants are not saying that Tran's cell does not have some type of "cell body maintaining position." Applicants are saying that examiner is incorrectly attributing  
15 the characteristics recited in claims 15, 16, 75, and 76 to those elements of Tran which are "maintaining position." Applicants preserve the right to argue these points in a future application, without prejudice.

Applicants must confess some puzzlement about examiner's  
20 statement in point 54 that "the features upon which applicant relies (i.e., sizing the electrodes in relation to the x-rays) are not recited in the rejected claim(s)." Claim 20 recites as a limitation, the electrodes "comprising an ordinary surface area approximately equal to an interrogation spot area of x-rays."  
25 Claim 21 recites the x-ray transmission windows "comprising a surface area approximately equal to an interrogation spot area of x-rays." Similar recitations appear in claims 80 and 81, as well

as cancelled claims 137, 138, 155 and 156. In applicant's view, sizing the electrodes in relation to the x-rays is in fact thereby cited in the rejected claims, and it is unclear to applicants what more examiner is looking for. Applicants  
5 preserve the right to argue these points in a future application, without prejudice. So too with regards to point 55.

20-26. Claims 22, 23, 33, 50 - 53, 55-58, 82, 83, 93, 110 - 113, 115-118 are allowable based on their dependence on claims 1 and  
10 62. Further points of patentable distinctness need not be addressed here to place the application in condition for allowance. Applicants also reiterate their arguments in point 19 of the prior reply, which are hereby incorporated by reference, and note examiners concurrence in Point 53 that Tran "does not  
15 disclose the process of optimizing to obtain an electrode thickness." Applicants further preserve the right to argue any issues about the product resulting from this process in a future application, without prejudice.

Regarding point 56, applicants also incorporate by reference  
20 points 26 and 27 of their earlier reply. Claim 51 is amended here to specify "monitoring a total *non-saturated concentration* of dissolved ions" as opposed to monitoring concentration "while said electrodes are not saturated." Similar amendments are made to claims 52-53 and 111-113. The issue of concern is not *when*  
25 the monitoring is taking place ("while electrodes are not saturated") but rather *what* is being monitored ("non-saturated concentration"). Tran's monitoring for targeted breakthrough may

take place before the cell is saturated, but Tran does not and cannot monitor a non-saturated concentration. Tran only detects (classifies in a binary way) whether the cell has or has not yet become saturated. Targeted breakthrough in Tran means

5 saturation, and all that Tran ever detects is saturation or lack thereof. Applicant's system comprises fine-tuned-detection of non-saturated states, and it is crucial in applicants' system to avoid saturation states long before they are reached with fairly precise, non-saturated readings.

10 Regarding point 57, applicants have similarly amended claims 55 and 115 to specify a "non-saturated" threshold. All of claims 51-53, 55-57, 111-113 and 115-117 present points of patentable distinction beyond their dependence on claims 1 and 62, and these amendments - though not required for patentable distinctness -  
15 further clarify this.

Regarding point 58, claims 58 and 118 specify means for ionic release "into said fluid," and thus differentiate further from Tran, as set forth in applicants earlier point 29, hereby incorporated by reference and reiterated. Examiner does not  
20 appear to have addressed this point.

27-29. Claims 3, 45, 63 and 105 are allowable based on their dependence on claims 1 and 62. They contain further points of patentable distinctness which need not be addressed here to place  
25 the application in condition for allowance. Applicants reiterate their arguments in point 31 of the prior reply, which are hereby incorporated by reference. In reply to examiner's point 59

herein, applicants were not attacking the references individually but were observing that there is nothing in either reference to disclose, suggest or motivate the combination of references applied by examiner and that examiner is finding a combination  
5 that is not supported by these references. Applicants preserve the right to argue these points in a future application, without prejudice.

Claims 122, 123, 126-128, and 144-146 were cancelled in point 12, without prejudice.

10

30. Claims 9 and 69 are allowable based on their dependence on claims 1 and 62. Further points of patentable distinctness need not be addressed here to place the application in condition for allowance. Applicants reiterate their arguments in point 15 of  
15 the prior reply, which are hereby incorporated by reference.

Additionally, examiner newly-cites Taylor. The purpose of Taylor's baffles is to provide for a uniform, laminar distribution of flow which is exactly opposite of applicants' system for non-laminar turbulence. As set forth in the  
20 disclosure, applicants' turbulence enhancers are "for enhancing the turbulence of the input fluid flow **840**, thereby inducing mixing of the flow stream to allow the impurities to be *more uniformly extracted* from the flow stream passing through the concentration cell." That is, the fluid of interest is agitated  
25 so that it will provide increased surface contact of non-ion depleted fluid with the essentially co-planar NCC plates thus ensuring that a layer of fluid, depleted of the element(s) of

interest, does *not* form next to the electrodes. Uniform extraction does *not* suggest uniform flow; rather, it requires turbulent, non-uniform flow. Applicants' physical design is that of tabs placed on a diagonal to bring about turbulence, which is  
5 much different from the structure Taylor describes.

As stated above, applicants preserve the right to argue these issues in a future application, without prejudice.

31. Claims 17 and 77 are allowable based on their dependence on  
10 claims 1 and 62. They contain further points of patentable distinctness which need not be addressed here to place the application in condition for allowance. Applicants preserve the right to argue these points in a future application, without prejudice.

15 Claims 136 and 154 were cancelled in point 12, without prejudice.

Applicants do note, however, that Malcolm, newly-cited, does not describe a cell body or cell structure made of Delrin® but rather a radiation transmission window comprising Delrin®, and  
20 that use of Delrin® for applicants' cell body would not have been obvious to someone of ordinary skill. Applicants disclose using Delrin® for the body, but *not* for the window, because the absorption of a Delrin® window would be too great for the fluoresced signal to be seen by applicants' external detector.  
25 (Again, it is important not only to pass x-rays into the cell electrodes through the x-ray transmission window, but also to receive fluoresced signals back out from the cell electrodes



through the x-ray transmission window.) Please note also that Malcolm utilizes a detector system opposite the radiation source with the Delrin® window being placed between the radiative source and the detector. It would not have been obvious to someone of  
5 ordinary skill to apply the Delrin® window described by Malcolm to a cell body such as applicants'. The cell body serves very different functions and purposes than does the x-ray transmission window.

As stated above, applicants preserve the right to argue  
10 these issues in a future application, without prejudice.

32. Claims 44, 59, 60, 104, 119 and 120 are allowable based on their dependence on claims 1 and 62. They contain further points of patentable distinctness which need not be addressed here to  
15 place the application in condition for allowance. Applicants reiterate their arguments in points 24 and 30 of the prior reply, which are hereby incorporated by reference. Applicants preserve the right to argue these points in a future application, without prejudice.

20 Claims 129, 131-133, 150 and 151 were cancelled in point 12, without prejudice.

Applicants note that Ma, newly-cited, makes no distinction between optimized angles and does not reference any calculation which would allow for precise alignment of the detector and  
25 source, or for suitable sizing of an x-ray transmission window to match up with the spot size of x-ray equipment or the detection surface of an x-ray fluorescence detector.

As stated above, applicants preserve the right to argue these and related issues in a future application, without prejudice.

5 33. Claims 61 and 121 are allowable based on their dependence on claims 1 and 62. Further points of patentable distinctness need not be addressed here to place the application in condition for allowance. Applicants reiterate their arguments in point 32 of the prior reply, which are hereby incorporated by reference.

10 Additionally, Nelson, newly-cited, does not disclose, suggest or motivate *transmitting x-ray test data* over any type of link. As stated above, applicants preserve the right to argue these matters in a future application, without prejudice.

15 34. Claim 148 was cancelled in point 12, without prejudice. It is observed as stated in point 12, that Tran's plates are not configured and capable of transmitting x-rays (or a fluorescence signal) therethrough, and that there is no teaching or suggestion or motivation in the art of record to reconfigure these plates so  
20 as to make them x-ray (or fluorescence) transmissive.

35-39. Claims 26, 27, 32, 86, 87, and 92 are allowable based on their dependence on claims 1 and 62. They contain further points of patentable distinctness which need not be addressed here to  
25 place the application in condition for allowance. Applicants reiterate their arguments in point 22 of the prior reply regarding nano-cellular carbon, which are hereby incorporated by

reference. Applicants preserve the right to argue these points in a future application, without prejudice.

Claims 141, 142, 159 and 160 were cancelled in point 12, without prejudice.

5        Claim 181, 185, 186, and 190 are hereby cancelled, along with all of their dependents 182-184 and 187-189, without prejudice. Applicant has cancelled these claims solely to place this application in condition for allowance leading to a near-term patent issue as noted at the outset of these remarks, rather  
10        than run the risk of the delays inherent in the filing of an RCE and continued argumentation. This is without prejudice to reintroduce these same claims and return to these same arguments in a later prosecution.

      Regarding points 35-37, Nelson states that the Kapton®  
15        utilized made a *poor* window for the purposes of maintaining a vacuum and so *teaches away* from applicants' disclosure. Applicants' use of Kapton® is to maintain a fluid-to-atmosphere barrier, and the materials best-suited to this are different than those required for a vacuum seal. In fact Nelson ends up stating  
20        that they use a Beryllium window for their system. Where Kapton® was a poor choice in Nelson it is a preferred choice for applicants. Also, Nelson's window does not maintain intimate contact with the electrode material as required by applicants, and in fact, contains a pin diode which would cause a short  
25        circuit if there was such intimate contact, or indeed, any contact. Nelson is doing no more than basic XRF directly on a large quantity of fluid, with no pre-concentrator, i.e. no

electrode. The only thing Nelson's window is in contact with is the fluid sample.

Regarding point 39, applicants employ a Nano-Cellular Carbon aerogel which is much different from what is used in Rhine. It isn't a polyimide based-product nor is it doped with metal hydrides or other metallic compounds. Rhine is teaching a method of manufacturing such aerogels, which has nothing to do with specific applications of these materials or with which materials are best-suited to which applications. Applicants are not teaching a mere change in size, but teaching fundamental changes in the characteristics of electrode materials to suit applicants' specifically-purposed cell for identifying and measuring concentrations of elements in fluids. The mere fact that certain electrode materials - such as those in Rhine - exist does not tell someone which of those materials are best suited to be combined into applicants' device system and method for identifying and measuring concentrations of elements in fluids. That requires the exercise of novelty and inventiveness that applicants have demonstrated in their disclosure.

20

***Allowable Subject Matter***

40-42. Applicants appreciate the allowance of claims in these points. All claims have now been either amended or cancelled as specified earlier, leaving only claims which examiner states are "allowable" or "would be allowable," so that this application should now be in condition for allowance.

Regarding claims 28 and 88, it appears as though the

examiner made a typographical error in the transcription of these claims. The claim states that the standard deviation of the average pore size is less than approximately 10 nm, whereas the examiner inadvertently states less than approximately 20 nm. In addition, in reference to these claims, the actual clause related to x-ray transparency states "an x-ray transparency greater than approximately 90% for characteristic photon energies from an element of interest for which a fluidic concentration is to be measured." Examiner used somewhat different language, and, of course, it is ultimately the claim language itself which governs the scope of these claims.

#### ***Response to Arguments***

43-59. Applicants have responded to these points in the earlier remarks throughout point 1-39 where a response appeared warranted to place this application in condition for allowance or to further make clear applicants' non-concurrence with examiner's viewpoint. Applicant's again make clear that their rights to revisit these issues in a future application are fully preserved, without prejudice, and that applicants' efforts to place this application into condition for allowance in no way indicates agreement or acquiescence with examiner's rejection of claims which have been amended or cancelled herein.

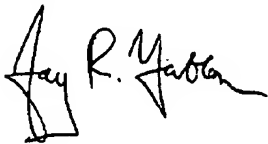
#### ***Conclusion***

For the many reasons discussed in this reply, the amendments made here are intended and should be sufficient to place this

application in condition for allowance, and the only claims now presented are claims for which examiner has already provided indications of allowability. IF THERE ARE ANY ISSUES REMAINING PRIOR TO THIS APPLICATION BEING FULLY ALLOWABLE, IT IS

5 APPLICANTS' INTENTION TO ADDRESS THESE NOW, AND TO LEAVE ALL POINTS OF DISAGREEMENT TO AN CONTINUATION. IT IS IMPORTANT TO APPLICANTS TO HAVE THIS APPLICATION ISSUE NOW, AND TO NOT HAVE IT BE FURTHER DELAYED WITH AN RCE. Applicants very much appreciate examiner's cooperation in reaching this goal, and request a phone  
10 call to iron out any minor issues that may remain, through examiner's or applicants' amendment, as suitable.

Respectfully submitted,



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